

## **MINUTES**

### **MONTANA SENATE 57th LEGISLATURE - REGULAR SESSION COMMITTEE ON NATURAL RESOURCES**

**Call to Order:** By **CHAIRMAN WILLIAM CRISMORE**, on February 12, 2001 at 3:10 P.M., in Room 317-C Capitol.

#### **ROLL CALL**

**Members Present:**

Sen. William Crismore, Chairman (R)  
Sen. Dale Mahlum, Vice Chairman (R)  
Sen. Vicki Cocchiarella (D)  
Sen. Mack Cole (R)  
Sen. Lorents Grosfield (R)  
Sen. Bea McCarthy (D)  
Sen. Ken Miller (R)  
Sen. Glenn Roush (D)  
Sen. Bill Tash (R)  
Sen. Ken Toole (D)

**Members Excused:** Sen. Mike Taylor (R)

**Members Absent:** None.

**Staff Present:** Melissa Rasmussen, Committee Secretary  
Mary Vandebosch, Legislative Branch

**Please Note:** These are summary minutes. Testimony and discussion are paraphrased and condensed.

**Committee Business Summary:**

Hearing(s) & Date(s) Posted: SB 408, 2/9/01  
SB 377, 2/5/01  
Executive Action: None

**Sponsor:** SENATOR BEA MCCARTHY, SD 29, Anaconda

**Proponents:** Anne Hedges, Montana Environmental Information Center (MEIC)  
Cary Hegreberg, MT Wood Products Association  
Gail Abercrombie, MT Petroleum Association  
Patrick Heffernan, MT Logging Association (MLA)  
Jim Mockler, MT Coal Council

**John Youngberg, MT Farm Bureau**  
**Frank Crowley, ASARCO**  
**Steve Pilcher, MT Stockgrowers**  
**Todd O'Hair, Natural Resource Policy Advisor to**  
**Governor Judy Martz**  
**Peggy Trenk, MT Relators Association**  
**Don Allen, Western Environmental Trade Association**  
**(WETA)**  
**Tim Stevens, Self**  
**Margaret Morgan, MT Petroleum Marketers**

**Opponents: none**

**Opening Statement by Sponsor:**

**SENATOR BEA MCCARTHY, SD 29, Anaconda,** opened her remarks by proclaiming that SB 408 was not a result of the MEPA study. During the interim, a bipartisan committee met to improve MEPA. The committee listened to public testimony and researched issues surrounding MEPA. The bill is a result of that committee's hard work. After 18 months the committee produced a report. The report lists specific recommendations and findings by the committee. The committee felt the MEPA process needed to allow state agencies to make timely, efficient, informed, cost effective, legally defensible and ultimately better decisions. One of the ways to accomplish this is through SB 408. It is the first in a series of bills drafted to address inadequacies in the study. The main purpose of the legislation is to require the director of an agency to sign all determinations of significance. With the director endorsing in writing, it would acknowledge for the first time that this responsible individual has reviewed the process. It was found during the interim committee hearings that often the department head or other persons within the department made this determination. This legislation would enforce the rights of Montana's citizens to a clean and healthy environment. **SEN. MCCARTHY** offered an amendment to her bill that would be ready during executive action.

**Proponents' Testimony:**

**Anne Hedges, MEIC,** asserted her support for SB 408 by pointing out that she felt this was a logical bill. However, she did have a few concerns about the workings of the bill. In reference to the board, she asked, if the project sponsor is allowed to go in front of the board shouldn't the public have that same right; can a board refuse to hear a request; are they forced to hear them; what type of time frame was allowed. Finally she wondered,

will the board have time to hear all of these requests and complete their work.

**Cary Hegreberg, MT Wood Products Association**, pointed out that the Environmental Quality Council (EQC) operates on a consensus basis not majority rule. This bill is one of the few things that the council discussed and came to a consensus on. With MEPA there is precious little middle ground. Critics like MEPA because it helps them accomplish its goals. Industry dislikes MEPA because it hinders or precludes them from accomplishing their goals. Finding a consensus is nearly impossible. No consensus does not mean there is no problem. A common allegation brought up by supporters of MEPA is that in its thirty years of existence the law has only been challenged twenty-seven times. He countered by stating that if only twenty-seven school children had brought handguns to school would that be an insignificant number. Would Montana environmentalists be satisfied if there had only been twenty-seven Sinead spills. Employers of Montana are asking the legislature to solve problems. The lawsuits filed against MEPA have been filed in the last few years and that trend is on the increase.

**Gail Abercrombie, MT Petroleum Association**, stated that she is not asking the committee to implode MEPA, but keep it structurally sound and usable. This is the first step in gaining clarification and creating sideboards for MEPA.

**Patrick Heffernan, MLA**, reported to the committee that when directors make decisions they usually have input from lots of different people. This bill makes a clear case as to what is a significant issue. Hopefully, the bill will clarify when a full Environmental Impact Statement is necessary (EIA).

**Jim Mockler, MT Coal Council**, surmised that when an agency has to deal with an important issue, it is mandatory that the director be involved.

**John Youngberg, MT Farm Bureau**, proclaimed that the bureau was involved in the discussion about this bill with the EQC. He agreed that department heads need to be involved in this level of decision making.

**Frank Crowley, ASARCO**, stated that this bill is a misunderstood piece of legislation. The phrase that has been tossed around in environmental groups is "analysis paralysis". He is concerned that our legislation is headed in that direction. Since the director of an agency is usually very busy, it is necessary that important issues such as these are brought to their attention.

**Steve Pilcher, MT Stockgrowers**, acknowledged that MEPA is an important statute. Unfortunately, it has been used to delay projects. The act is not sacred and should be subject to periodic reviews. SB 408 addresses the opportunity as to how significant the identified impacts will be. That is an important decision that needs to be made by the director of an agency.

**Todd O'Hair, Natural Resource Policy Advisor for Governor Judy Martz**, charged that the Martz administration will not support legislation that could lead to the degradation of the environment. The bill is an important "look before you leap" procedure. The bill would streamline the process and make it more efficient both to the public and business. The administration believes that the legislature needs to move away from analysis paralysis that the state has fallen victim to. He concluded that it is important to hold the applicant accountable to the current laws.

**Peggy Trenk, MT Relators Association**, expressed her support as well as **Charles Brooks, Billings Area Chamber of Commerce**, who was unable to attend the hearing.

**Don Allen, WETA**, cited that WETA was involved in the interim committee as well. He told the committee that under MEPA the determination of significant impacts is a major part of the law. Through the passage of this bill, time and costs involved in performing an EIS would decrease. By requiring the director to endorse significant impacts, it makes the agency more responsible.

**Tim Stevens, Self**, voiced that he was concerned that the public would lose their ability to participate in the legislative process.

*{Tape : 1; Side : B}*

**Margaret Morgan, MT Petroleum Marketers**, stated that streamlining is important to the future growth of Montana and the petroleum industry.

**Questions from Committee Members and Responses:**

**SEN. KEN TOOLE** asked **SEN. MCCARTHY** when the board would submit a report. **SEN. MCCARTHY** told the committee whenever the board felt it was necessary. **SEN. TOOLE** asked what kinds of things she wanted to accomplish with the new language. She answered that she hoped it would develop guidelines for the process.

**Closing by Sponsor:**

SEN. MCCARTHY thanked the committee for a good hearing.

HEARING ON SB 377

Sponsor: SENATOR DUANE GRIMES, SD 20, Clancy

Proponents: Michael Kakuk, MT Contractors Association  
Henry Fossnock, H & F Logging Inc.  
Ed Regan, RY Timber Corporation  
Don Serba, Pulp Paper Workers Resource Council  
Tim Ryan, Larex Inc.  
Ed Eggleston, Self  
Rudy Ketchum, Self  
Paul Buckly, Self  
Marty Johnson, Self  
Tom Monforton, Self  
Julie Martin, Self  
Joe Keller, Self  
Kim Lyles, Self  
Gary Marks, Self  
Rita Windom, MT Chambers  
Sheila Keller, Self  
John Youngberg, MT Farm Bureau  
Carl Schweitzer, Bozeman & Kalispell Chambers of  
Commerce  
David Server, PACE International  
Frank Crowley, ASARCO  
Steve Pilcher, MT Stockgrowers  
Steven Schwab, Self  
Scott Medenhall, Self  
Ellen Engstedt, MT Wood Products Association  
Peggy Trenk, MT Relators Association  
Margaret Morgan, MT Petroleum Association  
Aiden Myhre, MT Chamber  
Don Allen, WETA

Opponents: Howard Strouse, Audubon  
Jeff Barber, MT Wildlife Federation, MT Chapter  
American Fisheries Sociey  
Jack Terskie, Self  
Steve Thompson, MT Conservation Voters  
Anne Hedges, MEIC  
Matt Clifford, Clark Fork Coalition  
Beth Kaeding, Self

**Richard Parks, Northern Plains Resource Council**  
**Hope Stevens, Self**  
**Matthew Leow, MT Research Group**  
**James Sweaney, Self**  
**Steve Kelly, Friends of the Wild Swan**

**Informational: Jim Currie, MT Department of Transportation (MDT)**

**Opening Statement by Sponsor:**

**SENATOR DUANE GRIMES, SD 20, Clancy,** opened the hearing on SB 377 by reminding the committee of a previous bill brought before the 56<sup>th</sup> legislature. He pointed out that the reason for the bill's failure were a few technical errors. The new bill addresses many of the concerns brought up by the committee at that hearing. He informed the committee that Greenpeace is promoting a concept called "the precautionary principle". This is an international principle that they are starting to apply. The principle states that when someone proposes a project, they must prove beyond a shadow of a doubt that it will never cause any change in human health or the environment. Even the most minuscule changes are unacceptable. This is an unreasonable principle to live by. However, Montana is effectively applying the use of this principle through MEPA. MEPA has put a stop to numerous projects. MEPA was not designed to be an obstruction, but a review. This bill makes necessary changes and creates needed sideboards. SB 377 creates reasonable time lines in which to conduct a review. By implementing these time lines the environmental review process will be accelerated. After the complete application is received, an agency has 60 days to conduct a public scoping process, 90 days to complete an environmental review and 365 days to complete a detailed environmental statement. Under this bill, if the permitting agencies are overdue with completing the work, the project sponsor does not have to continue funding their additional work. Also, the permit agency can still get a permit extension if they provide a reasonable explanation. If the permitting agency has reason to believe that the project would not meet Montana's strong environmental laws, they can reject the permit. This allows the agency to bring finality to the MEPA process. A sideboard created in the bill provides that if anyone is going to challenge the permit they must do so within 30 days. **SEN. GRIMES** drew the committee's attention to the definition of "cumulative impacts". There are a few amendments **EXHIBIT (nas35a01)**, that will be proposed to change the definition. Currently, agency rules require the consideration of cumulative impact. The bill would change it to "may". Legislation correctly defines those issues as past or present projects related to the proposed action. This directs the project to be scientific and legitimate rather than

opening up every application to hypothetical speculation. If a permit is denied, they would have to start the application process all over again. The amendments address what happens if there is a conflict between MEPA and NEPA. The problem would be solved by defaulting to NEPA. **SEN. GRIMES** concluded his remarks by declaring that this bill has been mis-characterized. The bill would take down the signs that hang on Montana's borders that say we are closed to business. It replaces them with signs that say if you're willing to work with our strong environmental laws, Montana will work with you.

**Proponents' Testimony:**

**Michael Kakuk, MT Contractors Association**, expressed his support for the bill.

**Henry Fossnock, H & F Logging Inc.**, informed the committee that he supported SB 377 because of issues he has dealt with first hand with operations being shut down because of MEPA. One example he gave was the Plum Creek Timber Operation in the Swan state forest. Once he got started, a judge ruled that the operation had to stop. The company lost two weeks of work and numerous logs could not be salvaged. He professed that he does not want the environment harmed, but the law needs to be made clear so a decision can be made to move on or abandon a project.

**Ed Regan, RY Timber Corporation**, spoke in favor of SB 377 and submitted written testimony **EXHIBIT (nas35a02)**.

**Don Serba, Pulp Paper Workers Resource Council**, exclaimed that MEPA has become a playground for environmental lawyers. Making changes to MEPA does not mean degradation to the environment.

**Tim Ryan, Larex Inc.**, notified the committee that members from his company had recently met with Governor Martz to discuss economic development. He would like to bring a new plant to the state of Montana. However, there has been some difficulty in understanding the obstacles that face them due to MEPA. The time line issue is crucial in planning this new site. SB 377 gives firm time lines to the process and would let the company know exactly what they need to do to apply.

**{Tape : 2; Side : A}**

**Ed Eggleston, Self**, told the committee how he has watched projects die in Lincoln County because of environmental laws. SB 377 could solve problems of unemployment. There are communities that are dying because of lack of jobs. He pleaded with the

committee to help the citizens of these counties by passing this legislation.

**Rudy Ketchum, Self**, spoke in favor of SB 377 and submitted written testimony **EXHIBIT (nas35a03)**.

**Paul Buckley, Self**, stated how the current environmental laws imposed on industry have more to do with legal interpretation of laws and statutes than actual environmental impacts. He went on to point out how much money the Golden Sunlight Mine has put into the economy of Montana over the years. He concluded by stating that the economy of Montana is falling down and that the legislature needs to do what they can to help rebuild it.

**Marty Johnson, Self**, spoke in favor of SB 377 and submitted written testimony **EXHIBIT (nas35a04)**.

**Tom Monforton, Self**, spoke in favor of SB 377 and submitted written testimony **EXHIBIT (nas35a05)**.

**Julie Martin, Self**, told the committee about her family logging business. She would like that tradition to carry on in her family and feels the best way to do that is by passing SB 377.

**Joe Keller, Self**, contended that state sales are suffering and the legislature needs to do something to help the economy.

**Kim Lyles, Self**, reiterated to the committee that Montana's children are leaving for better economic conditions. He stated that the state of Montana needs to be more business friendly.

**Gary Marks, Self**, addressed the issue of closing businesses. He pleaded with the committee to help the natural resource business.

**Rita Windom, Lincoln County Commissioners**, stated that her community is living in a state of poverty. Due to the low economic conditions there, has been an increase in social problems such as domestic abuse. She commented how sad it is that kids are growing up and leaving her community.

**Sheila Keller, Self**, told the committee that she has seen Libby change in the last ten years. American Timber has closed and the increase of unemployment has lead to the detrition of the family in her area.

**John Youngberg, MT Farm Bureau**, pointed out to the committee that times have changed and our laws need to change with them.



**Carl Schweitzer, Bozeman and Kalispell Chambers of Commerce**, charged that clear environmental guidelines need to be established so that a business could determine if they would like to come to Montana.

**David Server, PACE International**, stated that he believed that this bill would streamline putting in power plants that would provide an affordable supply of electricity. He concluded that this bill is a good first step in making Montana competitive once again.

**Frank Crowley, ASARCO**, spoke in favor of SB 377 and submitted written testimony on behalf of **Douglas Parker, ASARCO**, **EXHIBIT (nas35a06)**.

*{Tape : 2; Side : B}*

**Steve Pilcher, MT Stockgrowers**, argued that good policy requires good decisions. SB 377 creates achievable deadlines for agencies that will hold applicants responsible for their actions.

**Steven Schwab, Self**, told the committee that he is an environmentalist who also believes in industry. He gave some examples of things that he has done to protect the environment. When he was growing up, industry was painted as an evil, but he says that is not true. He has worked for the Golden Sunshine Mine for eighteen years and he can testify first hand that there is no underlying agenda to harm the environment. The mine has a mandate to operate in a safe and environmentally sound manner.

**Scott Medenhall, Self**, stated that his business works towards economic development. His business alone accounts for 1/6 of the county's tax base. Two mines in Jefferson county are slated to close within the next two years even though there is enough ore. The MEPA process has effectively closed down these two businesses. There needs to be an effective process to go through that would generate natural resource based businesses.

**Ellen Engstedt, MT Wood Products Association**, spoke in favor of the bill and submitted written testimony **EXHIBIT (nas35a07)**.

**Peggy Trenk, MT Relators Association**, spoke in favor of SB 377. She also spoke on behalf of **Charles Brooks, Billings Chamber of Commerce**.

**Margaret Morgan, MT Petroleum Marketers**, stated that her association lends their support for this legislation and urged a do pass.

**Aiden Myhre, MT Chambers of Commerce**, expressed her support on behalf of the businesses that employ Montana's citizens.

**Don Allen, WETA**, expressed his support for SB 377.

**Opponents' Testimony:**

**Howard Strouse, Audubon**, informed the committee that change does not necessarily mean modernizing or streamlining. The passage of this bill would severely weaken MEPA. Over the years there have been 51 bills introduced to change MEPA, only 24 of those bills have passed. The EQC has recognized that there are four major goals of MEPA: it should help make informed state decisions, be accountable in open state decisions, balance state government decisions and ultimately make better state decisions. Any proposed amendments should be measured against those four purposes. The interim subcommittee made recommendations to change MEPA. Sideboards for "cumulative impacts" already exist. He stated that adoption of the proposed amendments would not only increase the time of appeals and getting a project started out, it would also undermine the amendments adopted in 1999. Shortening the time it takes to do an EIS would result in short, sloppy studies. He feared that short studies would cause irreparable harm to the environment and the economy. There must be adequate thoughtful review. He reported as an EQC member he worked to reduce the possibility of lawsuits and delays. This bill will have the opposite effect. It will reduce public input and increase delays and mistakes. The interim committee looked at other state's environmental laws, such as California and Washington and found that both states have good economies. He charged that MEPA is not the cause of Montana's economic trouble.

**Jeff Barber, MT Wildlife Federation, MT Chapter American Fisheries Society**, exclaimed that out of 17,376 analyses performed by MEPA, only one has been stopped. He asked the committee what was scientific about the time frames created in this bill. The proposed time frames would in fact conflict with the existing time frames. **Mr. Barber** gave the example of a coal study. Usually a coal study takes years; with the proposed thirty days it would be virtually impossible to do a thorough study. He also pointed out that the proposed 30 days for "scoping" is not adequate. With this bill there are no safety valves for project sponsors once the process starts. What happens at the end of this time frame is unclear. The language turns MEPA into a permit. Also, if a review is not finished, how can a good determination be made. Finally, this creates limbo for the agencies. He pointed out to the committee that the phrase "substantial likelihood" is not defined. He concluded his comments by arguing that it is impossible for an EIS to be

completed when the laws and standards are always changing. As a result it will increase litigation and delays.

**{Tape : 3; Side : A}**

**Jack Terskie, Self**, pronounced that the country has experienced ten years of economic growth with MEPA on the books. He stated that the legislature has been streamlining environmental laws since 1993 and as a result there has not been economic growth. This bill will not change economic growth. He charged that the department of state lands will still get their cut. He said in response to statements made by the opponents that MEPA does not apply to construction of plants on private land. He also claimed that MEPA does not stop projects from going forward. The passage of this bill will create more litigation and increase the contentiousness of environmental laws because of the vague language. People will begin suing under the Montana Constitution instead of under MEPA. He stated that by making cumulative impacts optional, as opposed to mandatory, lawsuits would increase.

**Steve Thompson, MT Conservation Voters**, challenged that the hearing has held numerous misconceptions. He stated that he has respect for mill closures and lack of jobs, but MEPA has nothing to do with that. MEPA does not deal with logging. The timber industry sells the maximum cut every year. Last year the timber industry sold more than their maximum board feet. Essentially, the provision of cumulative impacts would overturn portions of the 1996 State Forest Management Act and raise constitutional issues. The impact on water sheds would be detrimental. Logging has a large impact on water sheds and not conducting the proper studies would harm those areas. He gave the example of the proposed Plum Creek road construction. He concluded his comments by denouncing a comment made by **REP. DOUG MOOD**, that claimed there have been no timber sales in the Swan River State Forests for the past ten years.

**Anne Hedges, MEIC**, argued that SB 377 is riddled with problems. She gave her sympathy for the proponents of the bill but claimed that this bill does not change many economic factors. She raised a few questions to the committee, such as. When does the agency get a complete application; who decides when the application is complete; what qualifies as a complete application; when does the clock start ticking for the application process. She stated that the average review time for an EIS is 21 months. The review times do not fit in with the bill. She asked whether the DNRC is going to have to make speedier decisions. The bill will increase the time the agencies and the EQC have to spend in review processes. She also pointed out that the time frame the people

have to go to the EQC and the role of the board and agencies is unclear. She charged that the bill raises numerous constitutional questions. In the end the tax payers will have to pick up the tab for studies that cannot get done under these proposed time frames. She concluded her testimony by giving examples of projects that did not conduct adequate EIS's. She stated that studies cannot be hastily done because all information needs to be considered.

**Matt Clifford, Clark Fork Coalition**, declared that these assertions are based mainly on emotion and not fact. Due to the contentiousness of this bill decisions need to be based on fact. He charged that the reasons for the delay in the Rock Creek Mine are federal not state.

**Beth Keading, Self**, told the committee that she has been a NEPA consultant for ten years. She stated that in her experience setting arbitrary time limits only leads to problems. Unexpected things come up when preparing an EA or EIS and if you have to make a decision without having all of the data you will not make good decisions based on environmental consequences. If the state is allowed to proceed under the current MEPA laws, it will be in a better position legally.

**Richard Parks, Northern Plains Resource Council**, spoke in opposition of SB 377 and submitted written testimony **EXHIBIT(nas35a08)**.

**Hope Stevens, Self**, spoke in opposition of SB 377 and submitted written testimony **EXHIBIT(nas35a09)**.

*{Tape : 3; Side : B}*

**Harold Young, Flathead Resource Council**, spoke in opposition of SB 377 and submitted written testimony on behalf of **Thompson Smith, Flathead Resource Council** **EXHIBIT(nas35a10)**.

**Matthew Leow, MT Public Interest Group**, concurred with what the previous speakers have said.

**Jim Sweaney, Self**, stated his opposition for SB 377. He stated that Montana did not pass MEPA because it was anti-industry but because industry proved to be anti-Montana.

**Steve Kelly, Friends of the Wild Swan**, expressed his opposition for the bill. He also added that he did not see how the passage of this bill would lead to economic development and a better quality of life.

**Informational Testimony:**

**Jim Currie, MT Department of Transportation**, told the committee that the department was concerned with the conflict between NEPA and MEPA, but those concerns have been addressed by the amendments.

**Questions from Committee Members and Responses:**

**SEN. BILL TASH** asked **Mr. Strouse** if he could comment further on California's environmental laws as compared to Montana's.

**Mr. Strouse** said the information he had was sketchy, but he could tell the committee that a California EIS was required to list significant impacts.

**SEN. MCCARTHY** asked **Mr. Barber** if taking years to complete a study was a good thing. He responded by informing the committee that the MEPA process and permitting process run parallel. They naturally take years. **SEN. MCCARTHY** inquired about how many years would be reasonable to stall or roadblock a study. **Mr. Barber** apprized that it's not reasonable to stall because of the MEPA process. **SEN. MCCARTHY** asked for a beginning to end reasonable time line. He replied that it depends on the project.

**SEN. VICKI COCCHARELLA** asked **SEN. GRIMES** what the purpose of section 2 was. He replied that it was a communication mechanism. It puts into statute that if there is a problem agencies can go somewhere to air their grievances. She asked if the point was being able to go before the board. **SEN. GRIMES** replied yes.

**SEN. COCCHIARELLA** asked **Todd Everts, EQC**, if the review boards had extra time. He told the committee that the board usually has a full agenda, but they reserve some time for these types of circumstances. She asked if the board had to drop items due to lack of time. He said yes.

**SEN. TOOLE** asked **Mr. Hegreberg** if logging sales that go through MEPA review are exclusively state lands. **Mr. Hegreberg** told the committee that NEPA governs state lands. He added that private and tribal lands are not subject to the MEPA review. Trust lands are the only category of lands that go through the MEPA process. **SEN. TOOLE** inquired if the target of 42 million board feet of harvested timber had been met. **Mr. Hegreberg** explained that it had been met to the detriment of other parts of the state. He told the committee that the state is borrowing against the future of other programs. **SEN. TOOLE** wanted to know if **Mr. Hegreberg** disagreed with the target rate. **Mr. Hegreberg** admitted he has had some issues with the target rate. **SEN. TOOLE** concluded his

questions by asking what the percentage of available timber of state trust lands is. **Mr. Hegreberg** stated that he was not qualified to answer that question.

**CHAIRMAN CRISMORE** asked **Mr. Hegreberg** if he had a figure as to how much of the 42 million board feet of timber was grown on state trust lands. **Mr. Hegreberg** informed the committee that the state trust lands are producing over 120 million board feet annually. However, 25-30 million board feet is dying annually. **CHAIRMAN CRISMORE** inquired about the true definition of sustainable cut. **Mr. Hegreberg** told the committee that the legislation passed in 1995 stated that they had to comply with state and federal environmental laws. Those factors are built into the definition of sustained yield. The board of commissioners defined it further by passing the State Forest Management Plan. **SEN. CRISMORE** stated that if we grow 120 million board feet then we have not cut as much as we could have on our state trust lands. **Mr. Hegreberg** said that was correct.

**SEN. LORENTS GROSFIELD** asked **Mr. Kakuk** for clarification on amendments to page two line fifteen. **Mr. Kakuk** said it was meant to make the process faster. **SEN. GROSFIELD** wanted to know about cumulative impacts, why did they say "may" instead of "shall" and who decides when it is appropriate. **Mr. Kakuk** stated that the section did not currently change what is happening now. It states that if its appropriate they may list cumulative impacts. MEPA requires an agency to list cumulative impacts, but state law does not. **SEN. GROSFIELD** asked if the proposed amendment would take care of the need to go to each beneficiary. **Mr. Kakuk** clarified that the amendment would take care of any person coming in and saying they are a beneficiary. It is meant to specifically identify the school districts.

**SEN. COCCHIARELLA** asked **SEN. GRIMES** if the bill would stop feeding money out of state to companies or individuals hired to work on these studies if they are not done in a timely manner, and wondered about increased cost. **SEN. GRIMES** stated that the ASARCo letter answers many of **SEN. COCCHIARELLA'S** concerns. He added that time lines are not set until the application is completed. He deferred to **Mr. Kakuk** who stated that they will have to get the same information in a shorter time frame. **SEN. COCCHIARELLA** stated that consequently in order to meet the time frame the agency may have to hire more people. **Mr. Kakuk** pointed out that it may be better to have five people get done in a week what one person can do in a month.

**{Tape : 4; Side : A}**

**SEN. TOOLE** asked **Mr. Terskie** if he had handled many MEPA cases. **Mr. Terskie** informed the committee that he has handled many MEPA cases including two in the supreme court. **SEN. TOOLE** asked him to address whether or not there is a requirement to do cumulative impacts. **Mr. Terskie** said that under the current language of the statute they must be addressed. The bill makes it so that they no longer have to. He added that that would open the door to more litigation.

**Closing by Sponsor:**

**SEN. GRIMES** closed by addressing some of the issues brought up by the opponents. He stated that agency initiated projects are not included in the bill. This bill deals with sponsor initiated projects. He pointed out that under the time frames the sponsor is under the same pressures once the application has been completed. He argued that the constitutional issues had been taken care of under the amendments. **SEN. GRIMES** stated that cumulative impacts need to be secured in statute. He hoped that the committee was not being threatened by talk of additional litigation. Right now the state is mired in litigation and delayed projects. He told the committee that they need to keep in mind that the application will be complete. The clock will not start until the application is complete. He charged that right now it is not scientific to have unlimited time frames. There needs to be something established. The bill brings the process out into the open. The bill helps people to get moving. The intent of the bill is not to put pressure on the agencies. The bill is intended to create clear guidelines. He told the committee that at the end of the bill, if they wanted to put the word "final" in that was okay. The bill creates an open, honest, straight up and truthful process. **SEN. GRIMES** commented that he had seen some buttons around that say "don't mess with MEPA," and he understands the people's desire for a clean and healthy environment. However, he would submit to the committee that the subtitle on those buttons should be, "because with MEPA we get to mess around". He pleaded with the committee to stop the downward spiral of Montana. He pointed out that each year people come and testify for bills, but you don't see them year after year because they have stopped showing up. They stop showing up because their industries are dried up. People do not want to do business in Montana. The absence of those people should show the committee that something is amiss. He concluded his remarks by quoting former **SEN. MURPHY** who stated that he would never have voted for MEPA if he would have understood how it would have been applied by the courts down the road.

The following testimonies were handed in at the end of the meeting:

**Dr. Starshine, MWA**, handed in written testimony in opposition of SB 377 **EXHIBIT**(nas35a11) .

**Nancy Owens, Self**, handed in written testimony in opposition of SB 377 **EXHIBIT**(nas35a12) .

**Mark Fix, Self**, handed in written testimony in opposition of SB 377 **EXHIBIT**(nas35a13) .

**League of Rural Voters**, handed in a petition in support of SB 377 **EXHIBIT**(nas35a14) .

A Guide to the Montana Environmental Policy Act  
**EXHIBIT**(nas35a15) .



**ADJOURNMENT**

Adjournment: 6:12 P.M.

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SEN. WILLIAM CRISMORE, Chairman

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MELISSA RASMUSSEN, Secretary

WC/MR

**EXHIBIT (nas35aad)**